

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

CLOVERLAND DAIRY LIMITED PARTNERSHIP,
T/A CLOVERLAND FARMS DAIRY,

Defendant.

Civil Action No.
1:18-cv-02759-GLR

CONSENT DECREE

This action was instituted by Plaintiff, Equal Employment Opportunity Commission (the "EEOC" or the "Commission"), against Defendant Cloverland Dairy Limited Partnership T/A Cloverland Farms Dairy ("Defendant" or "Cloverland") alleging that Defendant unlawfully discriminated against Michael Brown, Barry Vitek and James Wancowicz by revoking their reasonable accommodation of parking in the spaces reserved by Defendant for individuals with disabilities and forcing them to park in an employee lot which is located further away from the facility, in violation of Sections 102(a) and (b) of the Americans with Disabilities Act ("the ADA") of 1990, as amended through the ADA Amendments of 2008, 42 U.S.C. §§ 12112(a),(b). Defendant denies the allegations of the Complaint.

The parties desire to resolve the Commission's action without the time and expense of continued litigation, and they desire to formulate a plan to be embodied in a Decree which will promote and effectuate the purposes of the ADA.

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and the ADA. Therefore, upon due consideration of the record herein and being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED:

Scope of Decree

1. This Decree resolves all issues and claims in the Complaint filed by the Commission in this ADA action which emanated from the Charges of Discrimination (the "Charges") filed by Michael Brown and James Wancowicz, Charge Numbers 531-2017-02140 and 531-2017-02223, respectively. This Decree in no way affects the Commission's right to process any other pending or future charges that may be filed against Defendant, and to commence civil actions on any such charges, as the Commission sees fit.

2. This Decree shall be in effect for a period of two (2) years from the date it is entered by the Court. During that time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate the purposes of the Decree.

3. Except as otherwise specified in this Decree, the terms of this Decree apply to all of Defendant's facilities.

4. This Decree, being entered with the consent of Plaintiff and Defendant, shall not constitute an adjudication or finding on the merits of the case, or an admission of wrongdoing or liability by Defendant or any of its owners or employees

Monetary Relief

5. Within ten business days of entry of this Decree, Defendant shall pay monetary relief in the total amount of \$75,000.00, representing \$25,000.00 in compensatory damages each

to Michael Brown, Barry Vitek and James Wancowicz. The checks for \$25,000.00 will be sent directly to Brown, Vitek and Wancowicz, and a photocopy of the checks and related correspondence will be emailed to the EEOC Supervisory Trial Attorney Maria Salacuse at maria.salacuse@eeoc.gov. Defendant will issue to Brown, Vitek and Wancowicz a United States Internal Revenue Services Form 1099 for the 2018 tax year for the damages amounts paid to them.

Injunctive Relief

6. Defendant, its officers, agents, servants, employees and all persons acting or claiming to act in its behalf and interest hereby are enjoined from denying reasonable accommodations to qualified individuals with disabilities and violating the provisions of the ADA, and related regulations, including the following provisions:

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to . . . discharge of employees . . . and other terms, conditions, and privileges of employment.

42 U.S.C. § 12112(a).

[T]he term 'discriminate against a qualified individual on the basis of disability' includes . . . not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability

42 U.S.C. § 12112(b)(5).

The term reasonable accommodation means modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

29 C.F.R. § 1630.2(o)(1)(iii).

7. Upon entry of this Decree, Defendant shall permit Michael Brown and Barry Vitek to park in its designated parking spaces for individuals with disabilities so long as they have a valid parking permit issued by the Maryland Motor Vehicle Administration.

Written ADA Policies & Procedures

8. Within sixty (60) of the entry of this Decree, Defendant will implement and maintain a written policy (the "Policy") which address the prohibition of disability discrimination under the Americans with Disabilities Act. The Policy shall address Defendant's duty to reasonably accommodate qualified individuals with disabilities and shall contain procedures for employees requesting reasonable accommodations under the Americans with Disabilities Act. Defendant will draft this for EEOC approval.

9. Defendant will post the Policy described in paragraph 8 in all places where notices to employees customarily are posted at its facilities and keep them posted for at least sixty (60) days and at least until Defendant amends its employee manual to include the Policy. Within five (5) days of amending the employee manual, Defendant will distribute its amended employee manual or the Policy to all employees.

ADA Training

10. Within three months from the entry of this Decree, and two years later, Defendant will provide all supervisors or managers and all individuals with human resources responsibilities with no fewer than one hour of live training on the requirements and prohibitions of the ADA. The ADA training will be conducted by an outside organization or law firm approved by the EEOC and shall cover all areas of prohibited ADA discrimination, but will include a special emphasis on reasonable accommodation, the duty to engage in an interactive process, and the prohibition of medical inquiries which are not job-related and consistent with business necessity. The training will also include a component on outside resources which should be consulted in considering reasonable accommodations, including but not limited to the Equal Employment Opportunity Commission; the Job Accommodation Network (a service of the

Office of Disability Employment Policy of the U.S. Department of Labor) and the Disability and Business Technical Assistance Centers. Defendant will maintain attendance records identifying the name and job title of the attendees at each session. Within thirty days of the training, Defendant will forward to EEOC a copy of the attendance records from the training session.

11. Within two months from the entry of this Decree and within thirty days of the date of hire and/or promotion of newly hired managers, supervisory personnel and human resources personnel, Defendant shall provide such personnel with ADA training. The training will be conducted live or in DVD, Video or Computer format. The content of the training shall be the same as that set forth in paragraph 10. Defendant will maintain records identifying the name and job title of the employees receiving such training, the date of commencement of each such employee's managerial or supervisory position, and date of training. Every six months, for the duration of this Decree, Defendant will forward to EEOC a copy of the records regarding such training.

Notice and Postings

12. Within ten business days of entry of this Decree, Defendant will post and cause to remain posted the posters required to be displayed in the workplace by Commission Regulations, 29 C.F.R. § 1601.30, in all places where notices to employees customarily are posted at its facilities.

13. Within ten business days of entry of this Decree, Defendant will post in all places where notices to employees customarily are posted at its facilities Exhibit A ("Notice to Employees"). This Exhibit shall be posted and maintained for the duration of the Decree and shall also be signed by Defendant's Vice President of Dairy Operations with the date of actual posting shown thereon. Should the Exhibits become defaced, marred, or otherwise made

unreadable, Defendant will ensure that new readable copies of the Exhibits are posted in the same manner as heretofore specified. Within 30 days of approval of this Decree, Defendant shall forward to the Commission's Baltimore Field Office a copy of the signed Notice (Exhibit A) and written certification that all Exhibits have been posted and a statement of the location(s) and date of posting.

Monitoring Provisions

14. On a biannual basis, Defendant will prepare and submit to the Commission a list of all individuals who have complained (internally or externally) of or reported any discrimination in employment on the basis of disability during that period. This list will include each individual's name; home address; home telephone number; nature of the individual's complaint; name of individual who received the complaint or report; date complaint or report was received; description of Defendant's actions taken in response to the complaint or report, including the name of each manager or supervisor involved in those actions. If no individuals have complained of or reported any discrimination in employment on the basis of disability during that period, Defendant will so inform the Commission's Baltimore Field Office.

15. In addition to the monitoring provisions set forth elsewhere in this Decree, EEOC may monitor compliance during the duration of this Decree by inspection of Defendant's premises, records, and interviews with employees at reasonable times. Upon ten days' notice by the EEOC, Defendant will make available for inspection and copying any records requested by EEOC, facilities sought to be inspected by EEOC, and employees sought to be interviewed by EEOC.

16. All materials required by this Decree to be sent to EEOC shall be addressed to:

Equal Employment Opportunity Commission
Baltimore Field Office
Attention: Maria Salacuse, Supervisory Trial Attorney
Baltimore Field Office
George H. Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201-2525

17. The Commission and Defendant shall bear its own costs and attorneys' fees.

18. The undersigned counsel of record in the above-captioned action hereby consent, on behalf of its respective clients, to the entry of the foregoing Consent Decree.

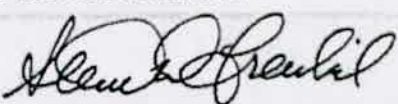
Respectfully submitted,

FOR PLAINTIFF:


Debra M. Lawrence
Regional Attorney

Maria Salacuse (Bar No. 15562)
Supervisory Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Baltimore Field Office
George H. Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201-2525
Phone: (410) 209-2733
Fax: (410) 962-4270 E-mail:
maria.salacuse@eeoc.gov

FOR DEFENDANT:


Steven D. Frenkil, Esq. (Bar No. 00087)
Miles & Stockbridge
100 Light Street
Baltimore, MD 21202-1036
410-385-3758
sfrenkil@milesstockbridge.com

SO ORDERED.

Signed and entered this 18th day of Sept., 2018.

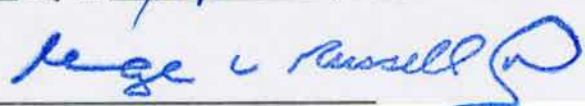

George L. Russell, III
United States District Judge

Exhibit A



NOTICE TO EMPLOYEES POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE EEOC AND CLOVERLAND FARMS DAIRY

The Americans with Disabilities Act ("the ADA") makes it unlawful for an employer to discriminate against qualified individuals with disabilities. The term "discriminate" includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability. The term "reasonable accommodation" includes modifications or adjustments which would enable the employee with a disability to enjoy equal benefits and privileges of employment which are enjoyed by other similarly situated employees without disabilities.

Cloverland Farms Dairy is committed to complying with the ADA. To that end, it has created and disseminated procedures which make clear that qualified individuals with disabilities may be entitled to reasonable accommodation.

As always, employees or job applicants should feel free to report instances of discriminatory treatment to a supervisor, a manager, or Human Resources [INSERT NUMBER] at any time. We have established policies and procedures to promptly investigate any such reports and to protect the person making the reports from retaliation, including retaliation by the person allegedly guilty of the discrimination.

Individuals are also free to make complaints of employment discrimination directly to the Equal Employment Opportunity Commission's Baltimore Field Office at the George H. Fallon Federal Building, 31 Hopkins Plaza, Suite 1432, Baltimore, Maryland 21201 or by calling 1-800-669-4000/ TTY (410) 962-6065. General information may also be obtained on the Internet at www.eeoc.gov.

Jim Cella
Vice President of Dairy Operations

Date